

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA

UNITED STATES OF AMERICA, U.S. DEPART- :
MENT OF HOMELAND SECURITY (DHS), IMMI- :
GRATION & CUSTOMS ENFORCEMENT (ICE), :
NATIONAL ARCHIVES & RECORDS ADMINISTR- :
ATION, OFFICE OF GOVERNMENTAL SERVICES :
(OGIS), :

Plaintiff, :
[FOIA/PA] Respondent, :

v. :

RIGOBERTO H. PORTILLO, Defendant, :
#72088-083 [FOIA/PA] Redressor, :
[\$2255 Habeas] Movant. :

[NO VOLUNTARY CONSENT - Form attached] :

Case No. 5:12cv92

Ancillary Criminal No:

1:07-CR-00081-GBL-4, ED VA - Alex.

1:11-CV-01093 (\$2255 Habeas)

[Title 5 USC § 551, et seq., § 552
(a)(4)(B), § 552a, § 555, § 702,
§ 703, § 704, § 709, § 901; Title
28 USC § 1331, § 1361, § 1651; Ti-
tle 18 USC § 3006A(c) & Rule 44]

JUDICIAL NOTICE

COMPLAINT
[FREEDOM OF INFORMATION/PRIVACY ACT]

This is a COMPLAINT as directed by federal agencies referenced above as supported by the Exhibits attached hereto. Exhibit A1(received on 6/28/12, with 6/25/12 postmark). Exhibit A2. This Complaint is a Privileged Redress of Grievances, Process, Protection under the Bill of Rights & Privileges - Immunities brought out of necessity, not by choice off Redressor's ancillary criminal case currently on collateral attack (§ 2255), pending Writ of Certiorari before the U.S. Supreme Court off Interlocutory Appeal out of the 4th Circuit on the issue of denial of financial-assistance of counsel-process. Redressor's criminal prosecution (jury trial) amounted to a miscarriage of justice based on extraordinary circumstances involving actual innocence, against a naive foreigner (El Salvador) who at all times was employed under contract with the ICE Agency referenced above and only prosecuted after his refusal to suborn perjured testimony on behalf of federal prosecutors, the Judge and his court appointed defense attorney, all working in cahoots out of an apparent Kangaroo Court, obviously now in denial and cover-up ... mode. Ex. A1. (other Exhibit relevant to the above scenerio, being denied at the present time also by other federal officials bent on apparently the same political agenda). Redressor is currently without the assistance of counsel, in want thereof. See Motion.

FACTS IN SUPPORT:

1. Redressor made his first good faith FOIA/PA "Request" Redress over a year ago on June 1, 2011, the first typically ignored by federal agencies necessitating a second mailing on 7/5/11. Exhibit B1.
2. REDRESSOR then, in good faith, wrote to the above referenced Office of Government Information Services (OGIS), so-called on August 1, 2011. Ex. B2. Someone responded with a frivolous form letter seeking additional information already provided and obvious as a federal prisoner (qualified). Ex. C1, C2. Ex. D(unavailable).
3. Subsequently then a letter ["final response"] was received from Homeland Security - ICE of 8/29/11, directing an appeal (frivolous). Ex. E1-2.
4. In the meantime, a letter was received (9/2/11) from OGIS and closing the OGIS case. Ex. E3. See Ex. E4.
5. On 9/5/12 Redressor filed his appeal as directed in Ex. E1. Ex. F1-2.
6. Their response of 9/19/11 assigned No. 2011FOIA13652, claiming backlog. Ex. F3.
7. After some 3-months of silence, Redressor wrote on the status of the appeal on 12/8/11. Two additional follow-up letters of 1/10/12 and 6/13/12 were sent with NO response to either of the three. Ex. G.
8. The inference from this silence (modus operandi) would indicate that DHS - ICE were in contact with their federal attorney-prosecutors off Movants like pending Habeas § 2255 Motion referenced herein on page 1.
9. On 6/28/12 Redressor received a letter by someone signing for Chief Susan Mathias DATED 9/23/11 as postmarked on 6/25/12, invoking frivolous exemptions to disclosures, directing Redressor again to OGIS. Ex. G1-2 & G3.
10. Redressor received another letter of 6/28/12 referencing Ex. G (attached). Ex. G4.

RELIEF/REMEDY SECTION: This is a simple FOIA/PA "Request" Redress as clearly mandated by statute, yet the Federal Agencies in question have directed this foreigner into the already overburdened federal courts (claimed). Agencies shall, likewise, cover all costs associated thereto, including any attorney fees and costs, any resulting monetary damages, court filing fees, copies, postage, and any other burdens on this poor, uneducated and currently unrepresented foreigner they have chosen to wrongfully imprison for their "deterrent value" on society in general, an expensive and loosing proposition. [i.e., deliberate indifferences to Acts and Rights] Ex. G1.

2. Specialized counsel shall be appointed or financial assistance provided to Redressor so he may retain same, as funded by the Agencies in question or their attorneys within the Department of Just-us. Title 18 USC § 4007, § 4042, § 3006A(c) and Rule 44, as an ancillary matter to Complainant's criminal case, including his § 2255 Motion in the criminal case - pending. Interlocutory appeal of any denial shall be certified along with counsel-financial assistance being provided for same.

3. The Agencies in question shall be ORDERED to comply with the Acts (statutes) as their rule of law mandates and they shall be ORDERED to cover all costs and expenses to this Redressor, his attorney and all the courts expenses, so as to perfect their accountability to the Acts - interests of law and justice in real terms, vs. their arbitrary and capricious policy-decision making, contrary to the Administrative Procedures Act in general, Title 5 USC § 551 et seq., and the Paperwork Reduction Act of 1980, Title 44 USC § 3501 et seq.

4. Other relief this Judge shall deem appropriate, without prejudice to Redressor.

5. To be amended or supplemented as necessary with the assistance of specialized counsel-process-protections, etc.

Submitted in good faith, in the interests of law and justice, as declared true and correct under penalties of perjury, with all Right(s) reserved and invoked and thus without prejudice, Title 28 USC § 1746WoP.

Dated: September 8, 2012

Declaration of Mailing: *H*

Rigoberto H. Portillo
Rigoberto H. Portillo #72088-083(C1)
Federal Correctional Institution
POB 7000, 4001 Leopard Dr.
Texarkana, TX 75505
(903)838-4587, 223-4424Fax